

REMARKS

Upon entry of the amendments herein, claims 1, 2, 4, 6-10, 12, 13 and 25-30 are pending in the application. Claims 3, 5, 11 and 14-24 have been cancelled; and claims 1, 2, 4, 6-10, 12, 13 and 25-30 have been amended.

The instant application is a divisional of application Serial No. 10/285,743, now U.S. Patent No. 6,670,359. The '743 application is in turn a divisional of application Serial No. 09/171,570, now U.S. Patent No. 6,479,497. During prosecution of both of these prior applications, the Examiner leveled and maintained a complex restriction requirement. As a result, the claims of the '497 patent recite some, but by no means all, of the originally claimed compounds of formula I wherein X is N. The claims of the '359 patent are directed to some, but not by any means all, of the originally claimed compounds of formula I wherein X is CH. The present application has been filed in order to resume prosecution of some, but again certainly not all, of the originally claimed subject matter not covered by the claims of the two prior issued patents in this family.

More particularly, the claims as amended herein are directed to additional compounds of formula I wherein X is N (claims 1, 2, 4 and 6-10), as well as formulation (claim 12), method (claims 13 and 25-28) and process (29) claims reciting said compounds. Finally, claim 30 is directed to intermediates in the synthesis of said compounds.

In general, the claims have been amended, as they were in the prior applications, to correct inadvertent errors and informalities, to put the claims in conformance with 37 CFR §1.75(c) and in the interest of more clearly reciting the subject matter regarded as the invention. Further along these lines, amendments have been made to the claims in order to make the language consistent with that of the claims allowed in the two prior applications.

The cancellation of claims and amendment of the remaining claims further is reflective of the consequences of the restriction requirements in the prior applications and the relationship between the subject matter which Applicants are now claiming and that which was allowed in the prior two applications. In particular, Applicants wish to make the following clarification with respect to some of these amendments.

The language inserted by amendment into claim 1 in defining the term "heterocyclic ring" (see part (r) in the definition of substituent R⁴) and the language inserted in defining the term "heteroaromatic ring" (see part (s) in the definition of substituent R⁴) must not be seen as provisos devised to distinguish the present claims from any of the prior art in the field. Rather, these amendments have been necessitated by the complex restriction requirements previously leveled by the Examiner; the added language is required to avoid double

claiming of some species encompassed by the subgenera of heterocyclic and heteroaromatic rings allowed by Examiner in prior application Serial No. 09/171,570.

Again, the subject matter covered by the claims as amended herein by no mean constitutes the entirety of subject matter not covered in the prior two issued patents; in fact, the possibility of claiming all such subject matter in a single application has, in practical terms, been precluded by the Examiner's complex requirements. In any event, the subject matter now claimed herein represents a reasonable extension of the subject matter previously allowed and is in the spirit of the restriction requirements leveled in the prior two applications.

No new matter has been introduced by any of the amendments herein. Entry of the amendments is respectfully requested.

The Commissioner is hereby authorized to charge any fees which may be due for any reason to Deposit Account 23-1703.

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Respectfully submitted



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